North Central Regional Transit District (NCRTD)

Resolution 2012-16

ADOPTION OF A RESOLUTION AMENDING THE NORTH CENTRAL REGIONAL TRANSIT DISTRICT PERSONNEL RULES AND REGULATIONS ADOPTED IN DECEMBER 14, 2007

WHEREAS, the NCRTD was created through legislative enactment (NMSA 1978, Sections 73-25-1 through 73-25-19); and

WHEREAS, the NCRTD is a subdivision of the State of New Mexico with all the authority and duties of the same; and

WHEREAS, the Board has the authority to make and pass resolutions necessary for the execution of the powers vested in the District; and

WHEREAS, personnel rules and regulations may be established to serve as guidelines to be followed in the administration of the District's personnel system to ensure uniform understanding and application of human resource polices; and

WHEREAS, the NCRTD Board adopted by voice vote at the December 14, 2007 meeting the NCRTD's initial Personnel Rules and Regulations; and

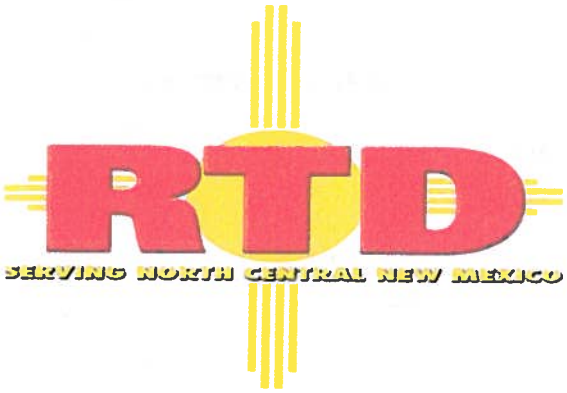
WHEREAS, the NCRTD Board desires to amend the North Central Regional Transit District Personnel Rules and Regulations for the purpose of compliance with Federal and State law and to ensure that the District's practices are contemporary in nature.

NOW THEREFORE BE IT RESOLVED THAT THE ATTACHED PERSONNEL RULES AND REGULATIONS ARE APPROVED AND ADOPTED AS ATTACHED HERETO AS EXHIBIT "A" ON THIS 3RD DAY OF AUGUST 2012.

Daniel Barrone, Chair

Approved as to form:

Peter Dwyer, Counsel



NORTH CENTRAL REGIONAL TRANSIT DISTRICT
PERSONNEL RULES AND REGULATIONS

Adopted on August 3, 2012 by Resolution No. 2112-16 superseding those adopted on December 14, 2007

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NORTH CENTRAL REGIONAL TRANSIT DISTRICT

The North Central Regional Transit District is governed by a Board made up of Directors appointed by their respective governing bodies. The Board determines and enacts District personnel policy.

AUTHORITY AND RESPONSIBILITY OF THE EXECUTIVE DIRECTOR

The Executive Director serves as the chief executive officer of the North Central Regional Transit District ("District") and is responsible for the administration of the entire District including any divisions or departments which may be created. The Executive Director executes the policies and directives enacted by the Board and supervises the expenditure of appropriated funds. Authority is delegated to the Executive Director for the administration of the District's Personnel Rules and Regulations. The Executive Director may issue interpretive memoranda as may be necessary to interpret and enforce the provisions of the Rules and Regulations. No contracts of or offers of employment may be made without the consent and signature of the Executive Director.

The Executive Director, at his or her discretion, may delegate any such authority to those within the District as he or she deems necessary, unless prohibited by the Board.

The Executive Director, or designee, will develop, maintain and update from time to time, the District's Classification and Compensation Plan.

RULE 1 GENERAL PROVISIONS AND PURPOSE

1.1 Prior Rules.

The District Personnel Rules and Regulations in effect prior to August 3, 2012, and all amendments thereto are hereby superseded. These policies also supersede all previous written and unwritten guidelines and past personnel practices of the District and also supersede any current department or division policy or procedure inconsistent with those set forth herein. Separate department or division policies that are more restrictive due to the operational needs of the department or division shall remain in effect, subject to the approval of the Executive Director.

1.2 Compliance.

All persons operating under the provisions of these Rules shall conform to, comply with, and aid in all proper ways in carrying out the provisions of these Rules.

1.3 Purpose.

These Rules are prescribed for the purpose of providing a modern personnel system, thereby promoting efficiency in the conduct of public business and assuring fair and impartial treatment to all applicants for employment and to all employed by the District.

1.4 Management Authority

The District retains the full right and responsibility to direct the operations, promulgate policies, rules and regulations and otherwise exercise the prerogatives of management, which more particularly include but are not limited to the following:

1. To manage and direct employees including the right to select, hire, promote, transfer, assign, evaluate, lay off, or to reprimand, suspend, discharge or otherwise correct personnel and to appropriately administer District policies on compensation and benefits;

2. To promulgate and enforce rules and regulations;

3. To manage and determine the location, type and number of physical facilities, equipment, programs and the work to be performed;

4. To determine goals, objectives, programs, services, and budget and to utilize personnel and technology in a manner designed to effectively meet these purposes;

5. To determine work methods, the size and composition and duties of the work force, and the organizational structure;

6. To determine the hours of work, the number of shifts required and work schedules;

7. To relieve employees from duty due to lack of work, lack of funds, reorganization, job abolishment or other legitimate reason;

8. To determine when a job vacancy exists, the duties to be included in all classifications, and the standards of quality and performance to be maintained;

9. To authorize overtime and determine the amount required thereof;

10. To maintain the security of personnel and financial records and other important data or information;

11. To maintain and improve the efficiency and effectiveness of the operations; and;

12. To determine and implement necessary actions in emergency situations.

1.5 Coverage.

The Personnel Rules and Regulations cover all District employees except the Executive Director to the extent that his contract of employment varies from these Rules and Regulations.[1] Notwithstanding the general application of these Rules and Regulations to all employees the District can and shall, within the prescribed limits of the law, provide different standards for performance, review, and disciplinary action based upon the duly adopted Classification and Compensation policies of the District. These Rules and Regulations do not apply to independent contractors who are not covered by the District Classification and Compensation policies.

1.6 Merit Principles.

The District adopts the following merit standards:

1. Recruiting, selecting, and advancing employees will be on the basis of their ability, knowledge, and skill, including open consideration of qualified candidates for initial employment.

2. Equitable and adequate compensation will be provided.

3. Employees will be trained as needed to assure high-quality performance.

4. Employees will be retained on the basis of the adequacy of their performance and provisions will be made for correcting inadequate performance and separating employees from employment if inadequate performance cannot be corrected.

5. Candidates and employees will be treated fairly in all aspects of personnel administration without regard to race, color, religion, disability, national origin, ancestry, sex, sexual orientation, age, political affiliation, veteran status, or other non-merit factors, and with proper regard for their primary and constitutional rights as citizens will be assured.

1.7 Equal Employment Opportunity-Discrimination and Harassment Prohibited.

A. The District is an "equal opportunity employer." The following acts of discrimination on the part of any person (employee) are expressly prohibited, and if such discriminatory acts occur, the person responsible for the act(s) is subject to dismissal or suspension from District employment or other appropriate disciplinary action. No District employee shall:

1. Unless based on a bona fide occupational qualification, refuse to hire, discharge, promote or demote or to discriminate in matters of compensation against any person otherwise

[1] The Executive Director is covered by an employment agreement and is an at-will employee.

qualified, because of race, color, religion, disability, national origin, ancestry, sex, sexual orientation, age, political affiliation, veteran status;

2. Deny equal treatment or otherwise favor any employee on the basis of race, color, religion, disability, national origin, ancestry, sex, sexual orientation, age, political affiliation, veteran status;

3. Print or circulate or cause to be printed or circulated any statement, advertisement or publication or to use any form of application for employment or membership to make any inquiry regarding prospective membership or employment which expresses, directly or indirectly, any limitation, specification or discrimination as to race, color, religion, disability, national origin, ancestry, sex, sexual orientation, age, political affiliation, veteran status, unless based on a bona fide occupational qualification;

4. Discriminate, intimidate, or retaliate against any person because he/she has filed a complaint, testified or participated in any proceedings under this section;

5. Aid, abet, incite, compel or coerce the doing of any of the acts forbidden under this section; or attempt to do so;

6. Attempt to favor or deny treatment to any employee or prospective employee or attempt to cause any person to violate the terms of these Rules and Regulations on the basis of race, color, religion, national origin, disability, ancestry, sex, sexual orientation, age, political affiliation, veteran status;

B. Employment in the District is to be in a workplace environment free of harassment because of race, color, religion, national origin, disability, ancestry, sex, sexual orientation age, political affiliation, and veteran status. By policy, the District provides procedures for reporting of illegal harassment conduct so that prompt remedial action can occur.

C. Charges of violations of this section shall be presented to the Executive Director or any supervisor or manager, who shall report it to the Executive Director. The Executive Director shall be responsible for any investigation necessary and may take any other appropriate action to enforce the purposes and intent of this section.

1.8 American with Disabilities Act.

A. The District will not discriminate against qualified individuals with disabilities in regard to the application procedures, hiring, advancement, discharge, compensation, training, or other terms and conditions of employment.

B. The District will provide reasonable accommodation to qualified individuals with a disability so that they can perform the essential functions of the job.

C. An individual who can be reasonably accommodated for a job, without undue hardship, will be given the same consideration for a position as any other applicant.

1.9 Immigration Reform and Control Act, 1986.

The U.S. Department of Homeland Security, Immigration Control and Reform Act of 1986, requires that all newly hired, or re-hired, employees present documented proof of identity and eligibility to work in the

U.S. Employees will be required to complete the Employment Eligibility Verification form, I-9 within three days of hire.

1.10 Drug and Alcohol Free Workplace.

A. As mandated by Federal law, it is the District's policy that the unlawful manufacture, distribution, dispensation, possession, or use of a controlled substance, including alcohol, in or on any District owned property is prohibited.

B. All employees who hold a commercial driver's license and are required to operate vehicles for the District as part of their employment are subject to the U.S. Department of Transportation substance abuse testing procedures as outlined in the Districts Drug and Alcohol policies including but not limited to the testing programs.

C. The District recognizes that employees are a valuable resource and wants to assist any employee who voluntarily comes forward and requests assistance with chemical dependency provided that the employee:

1. has not received notification to report for drug/alcohol testing in the six week period prior to his request for assistance,

2. has not been identified as a violator nor is under investigation for a violation of the District's Drug and Alcohol policy, and

3. has agreed to utilize the services available through the District's Health Insurance carrier.

D. Administrative policy may be developed further defining terms used in this Rule as well as procedures for implementation of Federal laws.

E. Employees found in violation of this Rule are subject to disciplinary action up to and including dismissal.

F. Employees who are not subject to U.S. Department of Transportation substance abuse testing will be subject to the District's Drug and Alcohol policies for safety sensitive positions with the exception of those requirements related to random drug testing.

1.11 Employee Responsibilities.

A. It is the duty and responsibility of every employee to be aware of and abide by existing work rules and regulations.

B. It is the responsibility of the employee to perform his/her duties to the best of his/her ability and to the standards set forth in his/her job description or as otherwise established for the type of work performed.

C. Employees are required to be at their work stations in accordance with the established working hours for their respective work units. Supervisors are responsible for maintaining attendance and tardiness records on their employees.

D. Customer Service Standards for Dress and Appearance: The District is a professional organization. All employees will present a professional appearance by wearing attire appropriate for their job classification in order to promote a positive image to its customers. The general public frequently forms its initial impression of professional credibility solely on employee appearance. The appropriateness of attire as seen by the general public has a bearing on how other agencies and departments view employee professionalism and ultimately working relationships. This policy is intended to provide standards on dress and appearance and is not meant to address all situations. There may be differences in some divisions dress standards depending on the nature of the work environment, nature of the work performed, involvement with the public, required uniforms or other circumstances as defined by the supervisor.

1. All clothing and accessories should be functional, in good repair, and safe.

2. Employees not required to wear uniforms should wear clothing that is neat and clean, and suitable for business.

3. Employees required to wear uniforms should wear uniforms that are clean, fresh, and mended if necessary. Uniforms bearing a District identification patch may not be worn, unless on duty.

4. Personal hygiene is essential. Therefore it is necessary that all employees maintain a clean, presentable appearance. Personal hygiene includes bathing/shower, and such other steps as are reasonably necessary to ensure that employees do not offend customers or coworkers due to lack of hygiene.

E. Upon separation from the District, any and all District issued equipment, including but not limited to uniforms, identification patches, and keys must be returned to the District.

F. Employees are required to notify their department manager or the Manager's Designee, their supervisor, and Human Resources Office if they have a change of residence or telephone number within ten (10) business days. Employees are required to notify the Human Resources Office if they have a change in domestic partnership, marital status (marriage, divorce, widowed) or change in number of dependents within fifteen (15) calendar days. New dependents not enrolled in the employee insurance benefits within fifteen (15) calendar days may be enrolled during the next open enrollment period.

1.12 Temporary Modifications to the Rules.

The Executive Director may temporarily modify or waive any of these Rules if it would be reasonable, appropriate, lawful, and necessary for the orderly and efficient administration of the District. The Executive Director shall promptly notify the Board of any temporary modifications made pursuant to this section.

1.13 Permitted Political Activity.

All employees are permitted to engage in political activities but shall not do so while engaged in NCRTD business, nor upon the vehicles, premises, or any other facilities of the NCRTD, nor in a manner that creates the appearance of NCRTD involvement in political activity. Employees of the NCRTD:

1. are encouraged to register and vote and have a right to express their opinions on all political subjects and candidates on their own time or on authorized leave;

2. may serve as convention delegates on their own time or on authorized leave;

3. may attend political rallies on their own time or on authorized leave;

4. may engage in political activity on their own time or on authorized leave to include signing nominating petitions and making voluntary contributions to political organizations;

5. may serve as an election official on their own time or on authorized leave;

6. may be a member of a local educational board or any other non-partisan elected office, which shall not be construed to be either holding political office, provided the employee is on their own time or authorized leave as necessary.

1.14 Prohibited Political Activity.

All employees are prohibited from:

1. Using official District property, letterhead, authority or influence for the purpose of interfering with or affecting the result of an election or a nomination for office, or for any other political purpose;

2. Using official District property, letterhead, authority or influence for coercing, attempting to coerce, commanding or advising an employee to pay, lend or contribute anything of value to a party, committee, organization, agency or person for a political purpose;

3. Threatening to deny promotion to any employee who does not vote for certain candidates, requiring employees to contribute a percentage of their pay to a political fund, influencing subordinate employees to buy tickets to political fund-raising events, advising employees to take part in political activity and matters of a similar nature;

4. Engaging in political activity while on duty, including but not limited to the following:

    a. Wearing campaign buttons or displaying campaign literature in public view for any federal, state or local election;

    b. Displaying political advertisements on District-owned vehicles;

    c. Using any District equipment, supplies, or property for political campaign purposes for any federal, state or local election;

    d. Circulating partisan political nominating petitions;

    e. Soliciting political contributions or participating in partisan fund raising activities;

f. Introducing or meeting with political candidates for the purpose of soliciting support for their campaign

1.15 Public Office; Holding or Running for.

A. The Hatch Act {5 U.S.C. Sections 1501 to 1508} restricts the political activity of individuals principally employed by state or local agencies who work in connection with programs financed in whole or in part by federal loans and grants. District employees who are considering political activity should consult their own legal counsel to determine whether the Hatch Act applies to them. The following are District restrictions for employees covered by the Hatch Act.

1. Employees covered by the provisions of the Hatch Act may be candidates in nonpartisan elections, if, upon filing or accepting the nomination and during the entire campaign, the employee is authorized to use leave.

2. Employees covered by the provisions of the Hatch Act may not be candidates in partisan elections.

3. Employees not covered by the provisions of the Hatch Act may be candidates for any public office, if, upon filing or accepting the nomination and during the entire campaign, the employee is authorized to use leave.

For more details on the Hatch Act and its application to District employees see:

http://www.osc.gov/hahelpfulInformStateSeparate.htm.

B. Although NMSA 1978, Section 10-9-21 does not apply to the District it is the grounds for state policies limiting political activities and the District chooses to follow the state policies by limiting political activities of District Employees as follows.

1. No District Employee shall hold elected political office except for non-partisan positions, school board positions, or any post-secondary educational institutional positions, and election official positions.

2. All District Employees shall be responsible for seeking and obtaining leave upon filing or accepting a nomination for any elected office whether or not said office is covered by section B. (1) above. Leave without pay shall not be denied by the District unless the Executive Director determines that the employees duties are essential to the continued operation of the District and that the required leave would compromise the Districts ability to perform work deemed essential for the day to day operation of the District.

1.15 Anniversary Date.

For salary and benefit purposes, an employee's anniversary date shall be the beginning of the pay period closest to the employee's hire date. Personnel actions which affect an employees pay (promotion, extended probationary period, demotion or reclassification) will result in the employee's anniversary date being changed to coincide with the beginning of the pay period closest to the date of the aforementioned actions for any future compensation adjustment.

RULE 2 – EMPLOYMENT – SELECTION PROCESS

2.1 Job Posting.

A. Unless a position is filled by promotion or internal lateral transfer, all vacant, or to become vacant, classified positions shall be posted on designated District bulletin boards and advertised internally for a minimum of ten (10) days to allow current interested employees the opportunity to apply and advance in their careers in the District. Internal posting and recruitment does not preclude the NCRTD from performing concurrent external recruitment efforts.

B. During the 10 day internal recruitment period the position may be filled without recourse to a List of Eligibles. Following the 10 day internal recruitment period the vacant position may only be filled by a candidate off of the List of Eligible's.

2.2 Vacant Positions may be filled by Promotion or Internal Transfers.

A. Promotion.

1. Any classified regular employee who has demonstrated continuous satisfactory service may be eligible to be promoted.

2. Employees may be eligible to be promoted to any classification within the same career ladder for which they meet the minimum qualifications without having to take the test for that classification.

3. Employees may be eligible to be promoted to any classification outside of their career ladder if they meet the minimum qualifications and pass the appropriate test, if applicable.

4. Management may select any candidate, or employee, from the appropriate list of eligible's for promotion.

5. Promotions approved by the Executive Director will be effective at the beginning of the pay period during which the Personnel Action Form is approved by the Executive Director.

6. Promotional increases are awarded in line with the District's Compensation Plan. The salary of an employee who is promoted shall be adjusted to the new salary range with a ten (10) percent increase in pay, unless a higher or lower rate is authorized by the Executive Director due to salary compaction; experience and qualifications; correction of salary inequities; or other valid reasons.

2.3 Transfers.

A. Management, with approval of the Executive Director, may transfer an employee from one work site, position, or division within the District to another without the employee's written consent, if deemed in the best interest of the District, provided the employee meets the minimum qualifications for the new classification.

1. An employee is eligible to transfer to another available position in the same classification or to another classification with the approval of the Executive Director.

2. An employee shall retain accrued annual sick and personal leave, if applicable, upon transfer.

B. Temporary Promotion.

1. The District may fill a vacant, classified regular or limited term position by the temporary promotion of an employee who meets the minimum qualifications.

2. A temporary promotion must be for a period of at least thirty (30) days or greater but not more than twelve (12) months.

3. The employee shall receive a temporary such salary increase as is permitted under the then current compensation plan but said salary increase shall not exceed two steps within any step plan that would provide an increase of at least five percent (5%) or to the minimum of the grade rate of the position, whichever is greater.

4. At the end of the temporary promotion period, the employee will revert to his/her previous classification and salary without right of appeal or hearing, but shall receive any salary increases that were received during the promotion period by all similarly situated employees.

2.4 Recruitment for Posted, Advertised Positions.

A. Recruitment shall be tailored to the number and nature of authorized positions to be filled and to labor market conditions.

B. Subject to budget and other valid constraints, the Executive Director may:

1. utilize trade journals, newspapers, radio and television media, internet resources and other local sources to publicize job opportunities;

2. maintain and use mailing lists of schools, vocational counseling offices, organized occupational groups, and other special interest groups for the dissemination of data about job and career opportunities;

3. invite individuals to specify their vocational interests for future reference;

4. prepare and distribute written information on job opportunities in the District; and

5. make periodic visits, displays, and programs directed at schools in order to interest students in jobs with the District.

2.5 Application for Employment or Promotion-Filling.

A. All applications for positions with the District shall be made on forms prescribed by the Executive Director. Such applications shall include information, which is determined necessary or is mandated by State or Federal law, or regulations. All applications shall be

signed, dated and the truth of the statements contained therein certified by the candidate's signature.

B. No question on any form of application shall be so worded as to elicit information concerning race, color, religion, national origin, ancestry, disability, sex, sexual orientation age, political affiliation, or veteran status of any candidate, except, that information required to assist with equal employment opportunity efforts, nor shall inquiry be made concerning such origin, opinions or affiliations during any interview, and all such disclosures, thereof, shall be disregarded, unless such information is deemed a bona fide occupational qualification.

2.6 Applicant Preference.

Candidates may, as provided by law, be given preference for positions if they are current classified employees or veterans, or as otherwise allowed by state or federal law.

2.7 Proof of Veteran Status.

Proof of eligibility for veteran preference shall be presented to the District at the time the application is filed.

2.8 Rejection of Application.

A. Applications may be rejected if the candidate:

1. Fails to meet the required minimum qualifications as stated in the job description;

2. Has been convicted of a felony or a misdemeanor and the provisions of the Criminal Offender Employment Act, Sections 28-2-1 to 28-2-6, et seq., NMSA 1978, permit such rejection:

   a. Subject to the provisions of the Criminal Offender Employment Act, in determining eligibility for employment, the District may take into consideration the conviction after the applicant has been selected as a finalist for the position; however, such conviction shall not operate as an automatic bar to obtaining public employment unless otherwise provided by law to the contrary.

   b. The following criminal records shall not be used, distributed, or disseminated in connection with an application for any District employment:

      (a) Records of arrest not followed by a valid conviction; and

      (b) Misdemeanor convictions not involving moral turpitude.

   c. The Executive Director may refuse to grant or renew, or may suspend or revoke the application of any candidate or employee for District employment for any of the following causes:

(a) where the candidate or employee has been convicted of a felony or a misdemeanor involving moral turpitude and the criminal conviction directly relates to the particular employment;

(b) where the candidate or employee has been convicted of a felony or a misdemeanor involving moral turpitude and the criminal conviction does not directly relate to the particular employment and if the Executive Director determines, after investigation, that the person so convicted has not been sufficiently rehabilitated to warrant the public trust.

d. The Executive Director shall explicitly state in writing the reasons for a decision which prohibits the person from engaging in District employment, if the decision is based in whole or in part on conviction of any crime described in Paragraph two of this section. Completion of probation or parole supervision or of a period of three years after final discharge or release from any term of imprisonment without any subsequent conviction, shall create a presumption of sufficient rehabilitation for purposes of Subsection c, 2), above in this Section;

3. Has made any material omission, false statement or produced any false document in support of the application;

4. Has failed to complete the application correctly or submit the application within prescribed time limits;

5. Has submitted an application for a classification that is closed for recruitment;

6. Has attempted to use political influence in securing a District position; or

7. Has otherwise violated these Rules.

The District shall notify each candidate whose application is rejected.

2.9 Examinations-General.

A. Examinations shall be confined to those matters which test the candidate's ability to be trained for the position and which are directly job-related and which fairly, validly, and reliably test the capacity and fitness of the applicant to successfully discharge the duties of the position for which the examination is administered.

B. Examinations may be written, oral, physical, performance tests, rating of training, or experience or any combination of these.

C. No test shall be administered by the District without such test having been approved by the Executive Director or by a duly authorized state or federal agency.

2.10 Exemption from Examination.

A. The Executive Director may exempt from competitive entrance tests those professional and technical persons who possess recognized registration or certification who are applying for classified positions, which require such registration or certification.

B. The Executive Director may also exempt from competitive entrance tests certain classifications where job-related ranking measures are not practical or appropriate. These classifications shall be limited to unskilled positions with no identifiable entrance requirements of experience or education.

2.11 Character of Examination.

A. Testing for a position in the District may be accomplished by one or a combination of the following types of tests: written tests, rating of education, training and experience, oral tests, assessment center, performance test, or any other appropriate selection device.

B. New tests will be developed in accordance with established professional techniques and relevant federal laws, regulations, and guidelines with the intent of measuring critical or important knowledge, skills, abilities, job duties, work behavior, or work necessary for successful job performance.

C. No question or other mode of inquiry in any examination shall be so worded or designed to elicit information that may discriminate for or against any applicant for reasons of sex, sexual orientation, age, race, color, physical or mental disability, national or ethnic origin, political or religious opinions or affiliation of any candidate, and all disclosures thereof shall be disregarded.

2.12 Removal of Names from List of Eligibles.

A. The Executive Director may remove the name of a candidate from any list of eligibles, if the candidate:

1. advises the District that he/she is not interested in that position in that classification;

2. fails to respond within five (5) working days of receipt of mail or email inquiry as to availability for employment; or

3. fails to appear for a scheduled interview without a valid reason.

2.13 Selection for Employment.

A. Applicants shall be selected who are best suited for positions without regard for race, color, religion, disability, national origin, ancestry, sex, sexual orientation, age, political affiliation or other non-merit factors.

B. The selected candidate may not start employment until background checks, pre-employment physical and drug tests are complete and passed—if required.

C. Those candidates interviewed but not selected shall be notified in writing of their non-selection by the Human Resources Office in a timely fashion.

D. Interviewers shall return the list of eligibles to the Human Resources Office with a note made on the disposition of all candidates on the list of eligibles.

2.14 Exceptions to Use of List of Eligible's

Former employees who separated from the District in good standing may be re-hired by the District within one (1) year from the date of separation without recourse to a list of eligibles.

A. The individual must submit an application and meet the minimum qualifications for the classification and the re-hire must be approved by the Executive Director.

B. Such individuals will be treated as a new employee regarding probationary period, leave accrual, seniority, and other employee privileges.

C. Former classified employees, who were laid off as a result of a reduction in force, may be offered reemployment by the District pursuant to the Rules and Regulations regarding reduction in force.

2.15 Nepotism Prohibited.

A. Persons shall not be employed by the District in a position where they would supervise or be directly supervised by any person related to them by blood or marriage to the third degree, or where they would supervise or be directly supervised by a domestic partner.

B. The following persons are relatives within the third degree:

Employee's spouse or domestic partner,
child
brother
sister
grandparent
grandchild
great-grandparent
great-grandchild
aunt (sister of parent)
uncle (brother of parent)
nephew (son of brother or sister)
niece (daughter of brother or sister)

if the employee is married, or with domestic partner, relatives of such spouse or domestic partner, as listed above, are included in this prohibition.

C. The Executive Director, manager, or any other supervisor may neither immediately supervise nor directly hire relatives as defined above.

D. The District shall be authorized to take any steps necessary, up to and including transfers, demotions and termination of employees, in order to ensure that this prohibition on nepotism is upheld.

2.16 Probationary Appointment.

A. New employees shall satisfactorily complete a trial work period referred to as probation and are considered classified regular or limited term employees after the satisfactory completion of their probationary period.

1. The probationary period for new, promoted or re-employed employees is six (6) months.

2. Prior to the expiration of the probationary period a supervisor may extend the probationary period up to an additional ninety (90) day period of evaluation if in the opinion of the management it is necessary and it is approved by the Executive Director.

3. If leave without pay is taken during the probationary period, the probationary period shall be extended by the number of days of leave.

B. An employee may be separated from the District without right of appeal or hearing at any time during the probationary period for any reason so long as the reason is not contrary to the express limitations on bias contained in these Rules and Regulations. A probationary employee is an *"at-will"* employee

2.17 Type of Employees.

A. Classified Regular employee is a budgeted, full or part-time position, duties of which do not terminate at any stated time. An employee working 40 hours minimum per week is eligible to receive full fringe benefits. An employee working not less than 21 hours and nor more than 39 hours per week is entitled to partial fringe benefits on a *pro rata* basis.

B. Exempt Employee (Non-classified) is a budgeted, full or part-time position, exempt from the classified service and FSLA.

C. Limited term employee is the employment of a person for a limited and specified time period, e.g., one year or longer subject to funding for the project or program, with benefits and subject to all personnel rules and regulations, except for the right of appeal regarding the expiration of the appointment or as otherwise stated herein.

D. Temporary employee is hired to perform a job which is limited in nature or is on a seasonal basis and which will not exceed twelve months of employment unless otherwise approved by the Executive Director. Temporary employees are not eligible for benefits and have limited remedies for employment disputes as stated herein.

E. Employees of temporary status may be converted to regular or limited term status in the same classification and credited with up to six months service towards completion of the probationary period at the time of the conversion with the approval of the Executive Director.

F. Temporary employees may fill in for Classified Regular Employees on Long Term Disability, Family Medical Leave, Worker's Compensation or Extended Leave without pay. If the temporary assignment lasts for more than six (6) months, these employees will receive the same insurance and paid leave benefits as Classified Regular Employees,

beginning the seventh (7th) month of their employment. However, these employees will remain temporary for all other purposes.

2.18 Emergency Hiring.

A. An emergency hire is the employment of a person when an emergency condition exists that would, in the opinion of the Executive Director, compromise the public health, safety, and welfare, or severely curtail the normal operations of the District and there are no candidates available on an appropriate list of eligibles.

B. If no candidates are available for the classification, the District may hire an apparently qualified person without testing.

C. An emergency hire may be converted to a probationary, regular, limited term, or temporary employee with the approval of the Executive Director if the individual

1. passes the appropriate test; or
2. has taken but not passed the appropriate test; the Department Management certifies that the employee is performing at a satisfactory level; and there are no available candidates for the position.

D. No individual shall hold an emergency appointment longer than ninety (90) days in any twelve (12) month period, unless approved by the Executive Director.

RULE 3 -- CLASSIFICATION AND COMPENSATION

3.1 Authority.

Compensation and Classification may be the subjects of separate District policies which may be changed from time to time independent of these Rules and Regulations.

3.2 Preparation of Classification System.

The Executive Director or designee shall prepare and maintain a Classification System which provides for a grouping of all positions in the District into classifications on the basis of essential duties, responsibilities, and minimum qualifications required. Compensation and Classification may be the subjects of a separate District policy which may be changed from time to time independent of these Rules and Regulations.

3.3 Content of Classification System.

A. The Classification System shall include the descriptions for the various classifications, which may be subdivided or grouped as deemed appropriate.

B. Written descriptions for each classification shall be prepared by the Human Resources Office, and approved and amended as necessary by approval of the Executive Director. These descriptions shall include:

1. The title of the classification;

2. Examples of typical essential tasks performed, responsibilities, and working conditions;

3. A statement of the minimum qualifications required, including the kind and amount of training and experience, knowledge, skills, and abilities, physical requirements, and job-related personal attributes that an employee should possess; and

4. Signature by the Executive Director and the date of the last revision.

3.4 Revisions to the Classifications.

A. Whenever the creation, abolition, subdivision, or consolidation of individual classifications appears necessary, due to the creation of a new position, change in organization, or change in the duties of an individual position, a classification may be revised and the revision must be submitted to the Executive Director for approval.

B. Any revisions that may reflect a major change in policy should be submitted to the affected Managers, Supervisors and interested parties in order to obtain input concerning such revisions.

C. When a classification is revised, the title of classification and in some cases the salary range assignment may be affected. The salary of the individual employee in the revised classification may not be reduced or increased without the approval of the Executive Director.

D. When there are revisions to the classification system as a whole the revisions shall be submitted to the District Board for approval.

3.5 Allocation of Positions to Classifications.

A. Every position in the District shall be allocated to a salary range; all positions substantially similar as to the tasks performed, as to the responsibilities exercised, and as to the minimum qualification requirements shown in the classification descriptions, shall be allocated to that same salary range.

B. The title of a classification shall become the title of such position and shall be used on all official records and correspondence relating to the position.

C. Department Management may recommend the allocation or reclassification of positions to one of the classifications in the Classification System or a new classification, subject to approval by the Executive Director.

D. Department Management shall submit adequate documentation to support the recommended reclassification of a position to a different classification.

E. Periodic audits to determine whether or not positions are properly allocated shall be conducted. If it is determined that a position is improperly allocated, the Executive Director shall reallocate it to its proper classification.

F. When a new position is contemplated, the position must be formally established before it may be filled. Except as otherwise provided by these Rules, no person shall be appointed to or employed in a position until the position has been allocated to a classification and approved by the Executive Director.

3.6 Compensation Policy.

It is the policy of the District that the comprehensive Compensation Plan, (Pay Schedule), for all classifications of the District is subject to and limited to availability of funding as may be determined by the Board. The Board shall be the final arbiter of available funds.

3.7 Preparation of the Compensationa Plan—Salary Ranges.

A comprehensive Compensaton Plan for all classifications in the District shall be prepared under the direction of the Executive Director. The Compensation Plan shall take into consideration experience in recruiting for positions for the District, prevailing rates of pay in comparison to similar services in public and private employment, cost of living, and other benefits received by District employees, and the District's financial condition and ability to pay.

3.8 Adoption of the Compensation Plan.

The Compensation Plan (whether a part of a Compensation and Classification policy or otherwise) shall be adopted by resolution of the Board.

3.9 Revision to the Compensation Plan.

The Compensation Plan may be revised upon the recommendation of the Executive Director and the approval of the Board.

3.10 Administration of the Compensation Plan.

A. The approved Compensation Plan shall constitute the official schedule of salaries for all classifications in the District to which such Compensation Plan is applicable. The rates of pay for all persons in the District shall be approved by the Executive Director and no salaries shall be approved unless they conform to the approved Compensation Plan.

B. No employee in the District shall be paid a salary less than the minimum nor greater than the maximum of the salary range for the classification as fixed by the Compensation Plan unless otherwise provided for in the Rules or approved by the Executive Director.

C. The entrance rate payable to any employee upon appointment to a position in the District shall be the minimum rate in any applicable salary range, unless a higher rate, in-grade hire, is authorized by the Executive Director because of the candidate's exceptional qualifications, difficulty in recruitment, or other valid reason.

D. The salary of an employee who is promoted shall be adjusted to the new salary range with up to a two step increase of adopted compensation plan. A higher or lower rate may be authorized by the Executive Director because of salary compaction; experience and qualifications; correction of salary inequities; or other valid reasons.

E. The salary of an employee who is demoted for disciplinary reasons shall be reduced by at least two steps in the event that the then current compensation plan provides for steps, but never below the newly assigned salary range.

F. The salary of an employee who voluntarily takes a classification reduction will be reduced by at least two steps in the event that the then current compensation plan provides for steps, but never below the newly assigned salary range.

G. The salary of an employee who is laterally transferred to a comparable position shall remain the same unless the Executive Director finds cause for a salary increase due to any change in employment conditions.

H. The salary of an employee who is re-employed after being called to military active duty in accordance with the provisions of Rule 4.21 shall be at a rate equal to what the employee would have attained had the employee not been called to active duty.

I. Market adjustments may be awarded upon a market adjustment formula if approved by the Board.

3.11 Performance Based Increases.

A. Performance increases shall not be granted on an automatic basis but shall be granted upon the demonstrated quality of performance as promulgated by the Board and based on the availability of funding.

B. Exempt, classified regular, and limited term employees who are considered to be deserving as evidenced by average or above job performance, may be granted a performance increase based on a formula as approved by the Board, as may be determined periodically within the limits of the salary range after one (1) year from the date of:

1. re-hire or re-employment;
2. initial appointment;
3. the last performance increase; or
4. promotion.

C. Any period of leave without pay in excess of thirty (30) days shall not be credited as continuous service toward eligibility for a performance increase.

D. Service in emergency or limited term, or temporary status, when followed without a break in service by probationary appointment to the same classification, will be credited toward eligibility for a performance increase.

E. The Executive Director may authorize a salary increase to any rate in the salary range as an incentive for the emergency retention of exempt, classified regular and limited term employees who are offered employment outside of the District to retain them in their current positions. The following will be required:

1. Documented proof of outside job offer.
2. Increase, computed as a percent of the employee's salary, may be granted as a lump sum at the end of a service period, in installments over the course of service period but never to be provided in advance.
3. Before receiving an emergency retention, an employee must sign a written agreement to complete a specified period of service with the District.

F. When an employee's salary reaches the maximum pay rate in the range for his/her position, the employee may be eligible for a cost of living adjustment based on a performance review by the Executive Director and determined and funded by the Board.

G. The Board may, upon appropriate notification of economic changes, approve a cost of living adjustment for some or all employees.

3.12 Salary Decreases.

A. Salaries of all employees may be decreased uniformly and equitably for budgetary reasons upon the recommendation of the Executive Director and approval of the Board.

B. Affected employees shall be given at least twenty-eight (28) days notice

C. In no case shall a salary be reduced below the minimum rate in the salary range.

D. Salary decreases may be made to classes of employees, when deemed necessary, in the following order:

1. Emergency.
2. Temporary.
3. Limited Term.
4. Probationary.
5. Limited Term.
6. Exempt.
7. Classified Regular.

3.13 Classification Reduction.

An employee may, as the result of reorganization or when deemed in the best interest of his or her supervisor, receive a reduction from their current classification to a lower classification with no reduction in salary.

3.14 Overtime Compensation.

In order to meet the demands of work, employees may be required to work in excess of the hours designated in their normal work week. Overtime compensation will be paid to employee, as indicated below, only for actual hours worked. Overtime will be held to a minimum consistent with the needs of the District and service to its constituents. Overtime is normally allowed by management only in emergency situations or when service demands present no other reasonable alternative. However, when a supervisor has determined the need for overtime to be worked, employees are expected to work a proportional share of the overtime assigned to the employee's classification or work unit. Refusal to accept an overtime assignment and/or continued refusal to participate in voluntary overtime offered to the employee's classification may result in disciplinary action. All overtime must be scheduled and/or approved by the employee's supervisor in advance, except in emergency situations where advance approval cannot be obtained.

A. Any employee, (except those determined not to be covered by the overtime provision of the FLSA), who are authorized and approved in advance by their supervisor and required to work in excess of the normal work week (forty [40] hours), shall be compensated for such overtime at one and one-half (1 1/2) times their hourly rate or unless otherwise specified in the Fair Labor Standards Act (FLSA). Such compensation shall be paid overtime unless the employee elects to receive compensatory time in lieu of paid overtime. Such compensatory time shall be accrued at time and one-half.

B. The following hours are considered as hours worked for the purpose of qualifying for overtime pay at the rate of time and one-half:

1. Hours actually worked;
2. Paid holidays;
3. Hours allowed for voting time;
4. Jury duty;
5. Hours allowed for court duty when appearing as a witness on behalf of the District or because of an official capacity with the District; and
6. Training time.

C. The following are considered hours not worked and will not be counted toward overtime/comp-time eligibility. Excepting only the provisions of B. above, an employee must be physically at work more than forty (40) hours per week and cannot use the following time to obtain overtime/comp-time eligibility:

1. Vacation;
2. Sick leave;
3. Military leave;
4. Funeral leave;
5. Injury leave;
6. Lunch break;
7. Comp-time hours used.

B. Travel time may or may not be work time.

1. Travel from home to work and from work to home is not work time. Time spent by an employee in travel as part of his/her normal activities, such as travel from job site to job site during the employee's regular working hours, or operation of a transit vehicle for public transit, is work time and must be recorded.
2. Travel performed outside of an employee's normal work schedule as a result of assigned duties may constitute work time. The Human Resources Office must be consulted in advance to determine whether or not such travel time is work time.

C. In some cases, compensatory time may be granted in lieu of cash payment. FLSA covered employees may accrue and use up to forty (40) hours of compensatory time annually. In the last pay period of the fiscal year, all accrued but unused compensatory time shall be paid to the employee at the employee's then current regular rate of pay.

D. An FLSA covered employee who separates from the District shall be compensated for all accrued compensatory time.

E. Exempt employees (non-FLSA covered) who work in excess of the normal work week (forty [40] hours), are not eligible for overtime pay. The basic compensation of exempt employees is based on the amount of work necessary to complete the assigned functions and is not based upon a set number of hours per work week. Time worked in excess of forty (40) hours per week is not eligible for compensation during the course of employment or upon termination. However, at the discretion of the Executive Director, exempt employees may be granted time off during normal work hours in consideration of their work efforts.

3.15 Holiday Pay.

A. The holiday schedule listed herein is the official holiday schedule.

B. All regular classified or limited-term employees shall be paid for holidays listed herein at the employee's straight time hourly rate. Holiday pay is based on eight (8) hours of pay for full-time employees and prorated hours for part-time regular employees. An employee whose work day is in excess of eight hours will be required to utilize compensatory time or annual leave for any absence in excess of eight hours on the day that the holiday is observed.

C. All FLSA covered employees who are required to work a holiday shall be compensated at the rate of two (2) times their hourly rate for all hours worked.

RULE 4 -- EMPLOYEE WORKING CONDITIONS

4.1 Training.

The primary responsibility for training employees shall be assumed by District management. District management will utilize performance and development plans as an indicator of an employee's need for training. Supervisors should consult with employees during the preparation of their performance and development plans regarding their training needs. Training shall be provided as needed but the District may prioritize training for employees who have a demonstrated long term commitment to employment with the District.

4.2 Training Needs.

The Executive Director shall require Supervisors to determine the training needs in determining their training needs and in devising and establishing programs to meet such needs. Priority shall be given to training that is required by law, training that effects safety, and training that will provide long-term benefits to the District.

4.3 Normal Work Week.

The basic work week for most full time employees shall consist of forty (40) hours in a seven-day period. The work week commences at 12:01 a.m. every Saturday and ends at 12:00 p.m. on Friday. There are two work weeks in a pay period.

4.4 Normal Work Day.

The normal work day shall be determined by the Executive Director to best meet the needs of each organization.

4.5 Other Employment while on duty for the District.

No employee shall engage in any other employment or self-employment, during the hours the employee is scheduled to work for the District. Violation of this Rule may be grounds for disciplinary action.

4.6 Outside Employment.

A. It is anticipated that employment with the District will be the employee's primary duty and all employees are required to ensure that any other employment does not interfere with their ability to fully and professionally perform their duties as District employees. All employees engaging in employment other than with the District must have prior District approval.

B. To assure no conflicts exists between District employment and outside employment (including but not limited to conflicts of interest, schedule conflicts or travel conflicts) employees who engage in employment in addition to their District employment are required to obtain written approval on a prescribed form from the Executive Director.

C. Before an employee may work for any other organization or engage in business for himself/herself, approval of the Executive Director is necessary to determine that:

1. Neither the employee nor his/her subordinates shall conduct any business connected with the employee's outside employment while on duty.

2. There is no conflict between the employee's official duties with the District and the proposed outside employment.

3. The employee is serving the District satisfactorily and will be able to do so if he/she undertakes outside employment.

D. Approval authorizes outside employment for a period of one (1) year from the time of approval. The employee must re-apply on a prescribed form for continued approval annually so long as employee wishes to continue outside employment.

E. In the case of injury or inability to perform job duties with the District due to impairments arising from outside employment, time off will be taken from the employee's earned accrued sick and annual leave.

F. Authorization to engage in outside employment shall be suspended during periods of sick or disability leave.

4.7 Legal Holidays.

The following federal holidays shall be observed as paid holidays:

January 1	New Year's Day
February	Presidents Day
May	Memorial Day
July 4	Independence Day
September	Labor Day
October	Columbus Day
November	Veteran's Day
November	Thanksgiving
November	Day after Thanksgiving
December 25	Christmas
Additional holidays:	Personal holiday

A. Whenever a legal public holiday falls on a Saturday, it will be observed on the preceding Friday and whenever a legal public holiday falls on a Sunday, it will be observed on the following Monday. Should an employee be on an authorized Leave with Pay when a holiday occurs, the holiday shall be paid and not charged against sick or vacation leave accumulation.

B. Employees whose scheduled day off falls on the observed holiday may be given an additional vacation day, comp-time or at the discretion of the Department Manager, employees may be given a compensatory day off to be used at some future day.

C. Employees required to work on the day a holiday is observed shall be compensated for such work in accordance with the provision on overtime.

D. Employees who are absent from work due to injury or illness on the day before or after an authorized holiday maybe required, at the discretion of their supervisor, to present a doctor's statement on the nature of injury or illness as it relates to the employee's ability to work on that day in order to receive pay for the holiday.

E. Part-time employees who would normally work on the holiday shall be entitled to holiday pay for the number of hours they would have worked had the holiday not occurred.

F. Personal Holiday: Classified regular, exempt, and limited term employees shall be entitled each calendar year to one (1) personal holiday that must be taken as eight (8) consecutive hours within the calendar year.

G. Classified Regular, exempt, and limited term employees shall be entitled each calendar year to one (1) personal holiday. The leave may be used for any purpose the employee chooses. Such leave must be requested and approved in advance. Every effort will be made to accommodate the employee's request, though approval will be subject to advance notification and the needs of the District.

H. The Personal Holiday must be taken as eight (8) consecutive hours.

I. The Personal Holiday must be taken within the calendar year or it will be forfeited.

J. The employee will not be compensated for the Personal Holiday upon separation, or in following calendar years if it was not used.

K. A classified regular, exempt, or limited term employee is eligible to request a personal holiday after six (6) months of continuous service upon initial employment with the District during that first calendar year.

L. Part-time employees are eligible for a personal holiday in proportion to the number of hours they would normally have worked.

4.8 Requesting Leaves of Absence.

A. All requests for leaves of absence, with or without pay, shall be made to the immediate supervisor for approval on forms prescribed by the Executive Director.

B. All requests for leave shall be submitted in advance of the beginning date of the leave, (except requests for unanticipated sick leave which shall be submitted for approval at the earliest possible time), and the duration and kind of leaves shall be recorded on the payroll.

C. Paid leaves of absence are subject to the employee's accrued leave balance and the scheduling requirements of the Department Manager.

D. All requests for leave without pay are subject to the rules set forth in Rule 4.16.

4.9 Annual Leave.

Annual leave is accrued in accordance with the schedule below. Periods of leave without pay shall not count for the purpose of accumulation of annual leave. Employees may accumulate annual leave, but

only a limited amount may be carried forward from year to year based on the schedule below. All hours of annual leave that may not be carried forward by the end of last pay period in the calendar year will be credited to the employee's sick leave balance on the first pay period of following calendar year.

Annual Leave Accrual Schedule					
Months	Length of Service	Annual Leave Hours/days	Hours Accrued (based on 80 hours worked per pay period)	Maximum Accumulation[2] (current employees)	Maximum Accumulation [3] (new employees)
0 – 48	0 thru 4 years	80 hours/10 days	3.077 hours	2 times annual accrual	240 hours
49 – 108	5 thru 9 years	120 hours/15 days	4.62 hours	2 times annual accrual	240 hours
109 +	9 or more years	160 hours/20 days	6.15 hours	2 times annual accrual	240 hours

A. Annual leave shall be taken for the actual number of hours absent and in increments of not less than1/4 hour increments.

B. The Executive Director or in the case of the Executive Director the Chair of the NCRTD Board shall regulate annual leave in order that the absence of an employee will not be detrimental to the work of the NCRTD. In no circumstances shall an entire department be permitted to take annual leave at the same time. Supervisors shall be responsible for scheduling annual leave so as to avoid unreasonable interference with District operations. Each employee is responsible for monitoring his/her leave balances and ensuring that he/she schedules leave in a manner that will avoid unreasonable interference with District operations and the loss or conversion of leave. Annual leave must be requested and approved in advance.

C. The Executive Director has the authority to grant advance leave in special circumstances.

D. Upon termination of employment an employee will be paid for any annual leave which has been accrued but not taken. In the event an employee terminates employment and has used more annual leave than has been accrued, that amount will be deducted from the employee's final check.

E. Part-time regular classified employees accrue a pro-rated amount of Annual Leave based on their base budgeted hours. Temporary employees do not accrue Annual Leave.

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[2] Based on an employee's length of service, employees may accumulate and carry over into the first pay period of the calendar year accrued and unused vacation, not to exceed two (2) times the annual maximum accrual.

[3] All employees hired after the effective date of adoption of these revised personnel policies may accumulate and carry over into the following year accrued and unused vacation not to exceed 240 hours subject to the provisions in section 4.9.

4.10 Family Medical Leave Act, (FMLA).

A. Eligible employees are entitled to Family Medical Leave (FML) in accordance with the FMLA.

B. Employees who have been employed by the District for a total of at least twelve (12) months and who have worked at least 1,250 hours during the twelve (12) months immediately preceding the start of FMLA leave are eligible employees. During the leave, employees must continue to pay the employee's share of health insurance premiums.

C. Eligible employees are entitled to a total of twelve (12) weeks of unpaid FMLA leave during a rolling 12-month period measured backward from the date on which the employee last used any FML for:

1. Birth of a child of the employee and care for the newborn child.

2. Placement of a child with the employee by way of adoption or foster care.

3. Care for the spouse, child, parent or one who stood in place of a parent of the employee, if that person has a serious health condition.

4. A serious health condition that renders the employee unable to perform any of the essential functions of the employee's position; or

5. Any qualifying exigency when the employee's spouse, child or parent is on active duty or is notified of an impending call or order to active duty in the Armed Forces (including the Reserves and National Guard) in support of a "contingency operation."

D. Military Caregiver Leave Entitlement. Eligible employees are entitled to a total of 26 workweeks in a single 12-month period per-covered service member, per-injury, measured forward from the date the employee's leave begins, to care for a spouse, child, parent, or next of kin who is a service member undergoing medical treatment, recuperation or therapy, is on out-patient status, or is on the temporary disabled retired list for a serious injury or illness. FMLA defines family member as son, daughter, spouse or parent.

E. Employees are required to use all applicable paid leave accrued in conjunction with FMLA.

F. Employees shall not accrue annual and sick leave, nor be paid for "observed or personal holidays" while on unpaid FMLA leave.

G. All medical records and correspondence relating to the employee and/or their families medical conditions shall be considered confidential.

H. A District policy will be developed for the administration of the FMLA and procedures for its use.

4.11 Sick Leave.

Sick leave is provided as a benefit to prevent or minimize an employee's loss of income during time lost due to personal and family illness or injury. Supervisors are responsible for controlling excessive absenteeism and abuse of sick leave by employees under their supervision. Employees are expected to utilize sick leave responsibly and should minimize their sick leave usage where possible. Sick leave may be used for any period of approved absence with pay from regularly scheduled work resulting from an:

A. employee having an illness or injury which renders him/her unable to perform his/her duties;

B. an employee having a medical examination, consultation, or treatment by a licensed practitioner; or

C. an employee's immediate family member defined as the employee's spouse, child or parent as defined by the Family and Medical Leave Act (FMLA), requiring his/her presence because of injury, illness or medical treatment.

4.12 Accrual Rates for Sick Leave.

A. Sick leave shall be accrued at the rate of 3.077 hours per pay period (80 hours per year) to a maximum of seven-hundred twenty (720) hours.

B. Sick leave may only be taken in the event of illness of the employee, or the employee's immediate family (spouse, children, and parent as defined by FMLA). The District may require the employee to furnish a written medical statement issued by a licensed physician or practitioner, or other evidence of illness that confirms the illness of the employee or their immediate family member, provides an estimate of when the employee will be able to return to work, sates whether the employees incapacity will require intermittent treatments, states the estimated frequency and duration of such treatments, and provides the estimated period for recovery, if known. Abuse of sick leave shall be cause for disciplinary action. If the employee's leave qualifies as protected leave under the FMLA, the District may require a medical certification as provided by federal law.

C. ***MISUSE OF SICK LEAVE*** - Misuse of sick leave by an employee affects the efficiency and productivity of other employees in the workgroup, especially those who seek assistance, advice, or guidance from an absent employee.

"Misuse" is considered the use of sick leave for that which it was not intended or provided and may constitute a violation of this policy. Examples of "misuse" may include, but are not limited to, the following:

1. Patterned sick leave usage before and/or after holidays.

2. Patterned period of sick leave usage before and/or after weekends or regular days off;

3. Patterned period of sick leave usage after pay days;

4. Absence following overtime worked;

5. Continued pattern of maintaining zero or near zero leave balances; and/or

6. Excessive absenteeism – the use of more sick leave than is granted.

Leave required by federal or state law such as Family and Medical Leave and Workers' Compensation shall not be considered when determining whether or not there is misuse of sick leave.

If a supervisor believes that an employee is misusing sick leave, the supervisor has the discretion to require a suitable explanation or documentation to determine whether the sick leave was used according to this policy.

D. Upon termination of employment with the NCRTD, an employee shall not be paid for sick leave that has been accrued but not used. Sick leave shall be taken for the actual number of hours absent from the office, and in increments of not less than one hour. All sick leave shall be accounted for by reporting its use on the approved forms upon returning to work. The Executive Director or their designee shall be authorized to approve all sick leave. The Chair of the NCRTD Board shall be authorized to approve all sick leave for the Executive Director.

F. Sick leave must be reported to the Executive Director, or the employee's immediate supervisor, at a minimum, two hours in advance of the employee's start of their work day. Failure to report their absence at a minimum of two hours prior to the start of their work day may result in the employee's leave being unapproved by the Executive Director or their supervisor.

G. If an employee has exhausted earned sick leave, additional time off shall reduce balances on any other leave such as vacation or compensatory leave. Unpaid leave will only be granted in accordance with these Rules and Regulations and will not be automatically applied to cases of employees who have exhausted their sick leave.

H. Supervisors should refer to the Family and Medical Leave policy regarding an employee's absence from an injury, illness or temporary disability. If an employee's absence is anticipated to be more than three (3) days, or once the employee exceeds three (3) days of absence, due to either their own illness/injury or to their family member's illness/injury, the absence should be reported to Human Resources.

I. Employees not planning to return to work following an extended sick leave must notify their supervisor or the Human Resources Office prior to the expiration of the leave (as defined by the physician's statement). An employee who does not return to work within the time frame specified by a physician may be subject to disciplinary action.

J. Sick Leave Incentive Transfer Program. In order to award employees who have judicious utilized sick leave the following program has been developed.

K. Employees who have accumulated sick leave in excess of 80 hours would be eligible to annually transfer to their vacation leave balance up to 80 hours of sick leave per year at the value listed in section "O" below.

L. Employees who utilize the annual sick leave transfer program must maintain a sick leave balance of 80 hours after transferring any hours up to the maximum allowed above this amount.

M. Those employees who participate in this program and transfer a minimum of 40 hours of sick leave annually will have their maximum accrual rate changed to three times the annual accrual rate.

N. Annually 30 days prior to the first pay period in December, employees who meet the criteria described above may elect to participate in the sick leave transfer program by completing the applicable forms.

O. The percentage value at which the leave maybe transferred to vacation leave is based upon the following:

Number of Sick Leave Hours Used Annually	Percentage Transfer Rate
24 hours or less	100%
25 – 32 hours	75%
33 – 40 hours	50%

4.13 Leave Without Pay.

A. A Supervisor may approve leave without pay for up to ten (10) working days upon the written request of an employee. Any leave without pay in excess of ten (10) working days must be approved by the Executive Director.

B. Leave without pay, when requested, may be granted only if Executive Director can assure a position of like status and pay, at the same location, upon the return of the person from leave without pay.

C. If the Executive Director cannot assure a position in the same location, and the employee agrees in writing to waive that requirement, leave without pay may be granted.

D. Leave without pay requested by an employee may not exceed thirty (30) consecutive calendar days in the case of a probationary employee or six (6) consecutive months in the case of a classified employee. Either period may be extended only upon prior written approval of the Executive Director.

E. Employees shall not accrue sick or annual leave while on leave without pay.

F. While on leave of absence without pay for 30-calendar days or more, excluding approved Family and Medical Leave, the monthly group insurance premiums for a covered employee and any covered dependents must be paid by the employee. Failure to pay insurance premiums may result in cancellation of coverage. Payment will be due on the first day of the month and a 30-calendar day grace period is permissible.

G. Leave without pay will be reported on a Human Resources Personnel Action Form.

H. Failure to report to work upon the expiration of approved leave without pay may be grounds for disciplinary action up to and including termination in accordance with the provision of Rule 4.31.

I. Return from leave without pay will be reported on a Personnel Action Form.

J. Nothing herein shall be deemed to require the Executive Director to grant leave without pay when requested or to limit the Executive Director's authority to place employees on leave without pay where such action is permitted under these Rules and Regulations or the law.

4.14 Absence without Leave or Authorization.

A. Employees who fail to appear at work without authorized leave may be considered to be absent without leave. Unauthorized absence may be grounds for disciplinary action up to and including termination.

B. An employee who is absent from work without authorized leave for three days may be deemed by the Executive Director to have voluntarily terminated their employment.

4.15 Administrative Leave.

The Executive Director may authorize leave with pay if there are exceptional circumstances and the Executive Director determines that granting paid administrative leave is in the best interests of the District. Paid administrative leave shall not exceed five (5) consecutive days. The Executive Director may grant additional administrative leave when deemed necessary and in the best interest of the District but shall promptly report any such extended administrative leave to the Board Chair and the Board along with an explanation of the bases for the leave. Nothing herein shall be deemed to require the Executive Director to grant administrative leave when requested or to limit the Executive Director's authority to place employees on administrative leave where such action is permitted under these Rules and Regulations or the law.

4.16 Voting Leave.

In accordance with the provision of NMSA 1978, Section 1-12-42employees who are registered voters may absent themselves from work for up to two (2) hours for the purpose of voting between the opening and closing times of the polls.

A. District management may specify the hours during this period in which the employee may be absent.

B. These provisions do not apply to any employee whose work day begins more than two (2) hours after the opening of the polls, or ends more than three (3) hours prior to the closing of the polls.

C. An employee who abuses voting leave by using it for purposes other than traveling to and from the polling place and voting may be charged with Leave Without Pay and subject to disciplinary action.

4.17 Court or Jury Leave.

A. When, in matters involving District litigation and in obedience to a subpoena, an employee appears as a witness before a federal or state grand jury or court, or before a federal or state agency, the employee shall be entitled to leave with pay for the required period. Fees received as a witness, excluding reimbursement for travel and meals, shall be remitted to the District.

B. A person shall be entitled to leave with pay for serving on a federal or state grand or petit jury. Fees received as a juror, excluding reimbursement for travel, shall be remitted to the District.

C. An employee who is released from jury duty shall report to work upon release or contact their supervisor if it would not be feasible to return to work. Failure to adhere to this provision will be considered unauthorized absence and may result in disciplinary action.

D. At the employee's option, the hours of jury or court services may be taken as annual leave, provided that the employee has enough annual leave available. The employee under this circumstance may keep any compensation received from the jury or court services.

4.18 Military Leave.

The District shall provide such military leave as may be required by pertinent laws of the State of New Mexico and the United States of America for any District employee in the military service who is duly qualified for said leave.

4.19 Bereavement Leave.

A. In the event of death of the employee's immediate family, the District may grant up to three (3) days of bereavement leave for the employee to attend to the funeral arrangement and services. An additional leave of two (2) workdays shall be allowed for necessary funeral travel time when approved by the Executive Director. Workdays are defined as the employee's regular daily work schedule. Use of sick leave may be authorized in addition to bereavement leave when deemed appropriate by the Executive Director.

B. Immediate family includes parent, current spouse or domestic partner, sibling, child, grandparent, grandchild, current son-in-law or daughter-in-law, or parent-in-law.

C. Department Management, in its discretion, may require some proof that a death in the family has occurred.

4.20 Inclement Weather Leave.

A. Full-Day Closing - Paid weather-related time due to closing will be limited to an amount equal to the hours that the employee was scheduled to work or would normally have worked on the day in question. If an employee has reported to work prior to the decision to close being made, weather-related time will only bring an employee up to the amount of their scheduled or normal working hours for that day.

B. Partial-Day Closing (delayed opening/early closing) - In the event that normal reporting time is delayed, employees working that day will receive paid time for the period between their scheduled or normal reporting time and the rescheduled reporting time. In the event of an early closing time, those employees working that day will receive paid time between the rescheduled closing time and their scheduled or normal closing time. However, employees who are on leave, have called in sick, have made a decision to take annual leave, or in the case of non-leave earning employees, have called prior to a decision to alter operating hours to advise that they will not be reporting to work, are not be eligible for any additional time or for a refund of leave balances. Weather-related time

will not extend employees' time beyond eight hours on the rescheduled day, nor is it considered holiday time available to those who were not scheduled to work on the day in question.

C. **Overtime Compensation** - Employees who are required to work additional time past their scheduled shift will be compensated per the Districts overtime policy. Employees who are designated as essential and required to respond during a severe inclement weather event will be compensated per the Districts overtime policy.

4.21 Layoff - Reduction in Force (RIF).

A. The tenure for all classified employees in the District shall be continuous provided that they are not separated from employment pursuant to these Rules and Regulations. However, this provision shall not be interpreted to prevent the layoff of employees by the District because of lack of funds or curtailment of work, when made in accordance with these Rules.

B. The Executive Director may propose to lay-off employees only for shortage of work or funds, or other legitimate governmental reasons that do not reflect discredit on the services of the employees. All other separations from employment shall follow the pertinent Rules and Regulations.

C. Nothing in this rule shall limit the ability, prerogative or necessity of the Board to direct the Executive Director to conduct a reduction-in-force for any and all positions and any and all departments.

D. The Executive Director shall in coordination with the Department Management identify organizational units for the purposes of a lay-off and submit a written plan to the Board for approval. Such organizational units may be recognized on the basis of function, funding source or other factors.

E. The Executive Director must define the classifications that will be affected within the organizational unit.

F. All employees who may be laid off shall be provided with notice of any Board meeting at which a RIF plan is proposed for adoption and shall be given the opportunity to be heard at the Board meeting. In addition, any employee objecting to the RIF plan or to a layoff that would separate them from employment shall be given notice of their right to a pre-RIF hearing and may request to meet with the Executive Director prior to implementation of the RIF and shall be allowed to present any arguments or information they have at the pre-RIF hearing. Employees shall be given at least fourteen (14) calendar day's written notice of layoff.

G. The order of layoff in the affected classifications shall be according to the plan.

H. Upon approval by the District Board of a layoff plan, the Executive Director shall initiate a right of first refusal within the District. All employees affected by the lay-off shall be provided the following opportunities for re-employment by the District following a layoff:

1. Employees to be affected by the reduction in force (RIF) shall be provided the right of first refusal to any position to be filled within the District for which the employee meets the minimum qualifications, at the same or lower pay range of the position the employee currently holds, unless there is an actual layoff candidate from an earlier layoff exercising reemployment rights for the position;

2. Affected employees shall compete only with other employees affected by the reduction in force for positions subject to the right of first refusal;

3. The District's list of eligible candidates for open positions subject to the right of first refusal shall be comprised of those affected employees meeting the minimum qualifications of the position;

4. The selection shall be based on the RIF plan.

5. Employees shall have ten (10) days from the date of an offer to accept the position unless otherwise agreed. Employees who do not accept an offer shall not lose the right of first refusal to other positions; and

6. A laid-off employee may refuse one right of first refusal offer. A second refusal of a right of first refusal offer will serve as a voluntary resignation and the District will have no further employment obligations to the laid off employee.

7. After six (6) consecutive months of layoff status, the District shall have no further right of first refusal or employment obligation to the laid-off employee.

4.22 Return from Reduction in Force.

A. Former employees who were in classified regular status at the time of separation by a reduction in force and who are granted a right of first refusal under the previous Rule 4.22 shall return to work as follows:

1. Former employees shall be returned to work according to the RIF plan. ;

2. Offers of employment shall be made in writing and shall be delivered by a method that provides proof of service or attempted service;

3. A former employee who is offered and accepts employment after lay off shall occupy the position within fourteen (14) days of accepting the offer of employment or forfeit the right of first refusal; and

4. Any former employee who refuses an offer of employment or fails to respond to an offer of employment within fourteen (14) days shall be removed from the list of eligibles for the position offered.

B. Former employees returned to work according to the provisions of this Section shall have that period of time they were laid off counted as time in the service, shall hold the status of the position and do not have to serve a new probationary period if re-employed into permanent status.

4.23 Furlough-Reduced work schedule.

A. In the event of the need for a furlough, Department Management and the Executive Director shall submit a plan identifying organizational units to be affected by the furlough to the Board for approval to begin the furlough.

B. The furlough plan shall reduce the hours of employment for all employees within the organizational unit impacted proportionate to their regular work hours.

C. No furlough shall exceed twelve (12) months.

D. Employees shall be given at least fourteen (14) days written notice of furlough.

E. Employees shall be returned from furlough when the reasons for the furlough cease to exist. Any restoration of work hours for furloughed employees shall be allocated across all employees within the organizational unit impacted proportionate to their regular work hours.

4.24 Employee Medical Separation.

A. Employees who have suffered work related injury and they cannot perform the essential functions of their position may be placed in light duty as deemed necessary by Department Management.

B. Employees who have suffered a job-related injury which is compensable under the Workers' Compensation Act and are physically or mentally unable to perform the essential functions of their pre-injury position, with or without reasonable accommodation, (to the extent required by the Americans with Disabilities Act) and a light duty position is not available, shall be involuntarily or voluntarily separated from employment without prejudice provided:

1. The employee has exhausted all paid leave and FMLA leave, and

2. The District has made reasonable efforts to find other suitable vacant positions within the District for which the employee meets the established requirements and can perform the essential functions of the job, either with or without a reasonable accommodation (to the extent required by the Americans with Disabilities Act).

A former employee who has separated from employment due to job-related injury and who has received or is due to receive benefits under the Workers' Compensation Act shall have reemployment rights in accordance with the provisions of Section NMSA 1978, 52-3-49.1. The Executive Director shall be notified immediately of any injured employee who applies for a position and subsequently declines a job offer.

Employees who have suffered a non job-related injury or illness and are permanently unable to perform the essential functions of their pre-injury/pre-illness position with or without reasonable accommodation, (to the extent required by the Americans with Disabilities Act), as a result of the physical or mental disability created by the non job-related injury or illness shall be involuntarily or voluntarily separated from employment without prejudice provided:

1. The District has made reasonable efforts to find other suitable vacant positions within the District for which the employee meets the established requirements and can perform the essential functions of the job, either with or without a reasonable accommodation (to the extent required by the Americans with Disabilities Act); and

2. The employee has exhausted all paid leave and FMLA leave.

Notice of Contemplated Medical Separation. To initiate the involuntary medical separation of a classified employee, the Supervisor shall serve a notice of contemplated separation to the employee which:

1. describes the circumstances that form the basis for the contemplated separation;

2. gives a general explanation of the evidence the District has;

3. advises the employee of his or her right to inspect and obtain copies of any documentary evidence relied upon;

4. specifies what the contemplated action is; and

5. states that the employee has fifteen (15) days from the service of the notice to respond in writing to the notice or to request an opportunity for an oral response.

C. Response to Notice of Contemplated Medical Separation:

1. If there is a request for an oral response to the notice of contemplated separation, the Supervisor, or designee, shall meet with the employee within ten (10) days of a request for an oral response, unless the employee and Supervisor, or designee, agree to an extension of time.

2. The purpose of the oral response is an opportunity for the employee to present his or her side of the story. It is an initial check against mistaken decisions, essentially a determination of whether there are reasonable grounds to support the proposed involuntary separation.

D. Notice of Final Medical Separation:

1. If the employee does not respond to the notice of contemplated separation, the Executive Director shall issue a notice of final separation within ten (10) days following the response period.

2. If the employee has filed a written response or has been provided an opportunity for oral response, the Supervisor shall provide recommendations to the Executive Director no later than ten (10) days from the date of the receipt of the response. The Executive Director shall render a written decision on the notice of final separation no later than ten (10) days from the date of the receipt of the Department Director's recommendation.

3. The written decision and the notice of final separation shall:

   a. Specify the action to be taken;

   b. Describe the circumstances which form the basis for the involuntary medical separation;

   c. Give a general explanation of the evidence;

   d. Specify when the final separation will be effective; and

   e. Inform the employee that the final separation may be appealed to an independent hearing officer by submitting a written appeal to the Executive Director within fifteen (15) days of the effective date of the separation. The appeal must specify the basis for the appeal.

E. Appeal of Final Medical Separation:

1. Upon receipt of a written appeal the Executive Director shall, within fifteen (15) days from the date of receipt of the written appeal, appoint an independent hearing officer to hear the appeal.

2. The selection, qualifications and procedure for disqualifying the hearing officer shall be the same as provided for in Rule 4.32.

3. The hearing shall be conducted in the same manner as provided for in Rule 4.33.

4.25 Employee Performance and Development Plan.

A. The performance of each employee will be appraised by the immediate supervisor at the completion of the probationary period and annually thereafter with an optional interim appraisal done at the sixth month.

B. This appraisal will be documented on a form approved by the Executive Director and will become a part of the employee's personnel file.

C. Supervisors may prepare performance development plans whenever it is deemed appropriate, such as when a supervisor wishes to make an employee's performance a matter of record and upon change of supervisors.

D. The Director will provide a training program in the proper method of appraisal for supervisory employees.

4.26 Acknowledgment of Receipt of Plan.

Employees will acknowledge in writing, receipt of performance and development plans. In instances where an employee declines to sign such acknowledgment, the Department

Management will verify in writing that the employee received the performance and development plan.

4.27 Rebuttal of Performance Appraisal.

Employees may submit rebuttal statements to performance and development plans which will be attached to the performance and development plan. Management may consider the rebuttal and may elect to change the performance and development plan based upon the rebuttal. But, nothing in the rebuttal shall serve to abridge management's right to prepare, submit, evaluate, update and potentially take disciplinary action based on the performance and development plan nor shall management be compelled to change its performance and development plan by the submission of a rebuttal.

4.28 Drug and Alcohol Policy

The District Drug and Alcohol policy is separately adopted and may be revised from time to time but shall be deemed a part of these Rules and Regulations and is hereby integrated by reference.

4.29 Oral/Written Reprimand

A. Supervisors may reprimand an employee for just cause. Oral Reprimands may be documented on a form prescribed by the Executive Director. Written reprimands may be issued for just cause by the Executive Director with or without a recommendation of the direct supervisor. Oral and written reprimands may not be administratively appealed.

B. If after six (6) months from the effective date of an oral reprimand the employee has shown improvement and no other infraction has occurred, he/she may request that documentation of the Oral reprimand be removed from his/her personnel file. Such requests should be made to the Executive Director and approved by the respective supervisor.

C. Written reprimands will not be removed from an employee's personnel file unless required by a court of competent jurisdiction.

4.30 Dismissal, Demotion, Suspension Procedures

A. Dismissal. A dismissal is separation of an employee from his/her employment with or without cause.

B. Demotion. A demotion is an action changing an employee's position to another position with a lower salary range and a reduction in pay. Demotions only may be made to a position in a classification for which the employee is qualified.

C. Suspension. A suspension is the temporary removal of an employee from his/her work assignment without pay. Employees covered by the Fair Labor Standards Act (FLSA) shall only be suspended without pay as permitted by the FLSA. *See e.g.* 29 C.F.R. 602 (full-work week suspensions for any disciplinary reason); 29 C.F.R. §541.602(b)(4)(less than full-work week suspensions for infractions of major safety rules); 29 C.F.R. §541.602(b)(5)(less than full-work week suspensions for violations of workplace conduct rules such as sexual harassment, workplace violence, drug or alcohol violations etc., but not for performance or attendance issues).

D. Employees in limited-term temporary, emergency or probationary status may be dismissed, suspended, or demoted without cause and for any reason the Executive Director deems appropriate. Employees must be advised in writing of the reasons for the dismissal, demotion, or suspension.

E. Classified regular employees who have successfully completed their probationary or extended probationary period may be dismissed, demoted, or suspended only for just cause. Just cause includes, but is not limited to:

1. Violation of or failure to comply with the Federal or State Constitution, Statutes, or District Policies, District Rules and Regulations and District Resolutions;

2. Indictment by a grand jury;

3. Conviction of or entrance of a plea of guilty or nolo contendere to a felony or other crime which has or may have a material adverse effect on the employee's ability to carry out their duties or upon the reputation of the District;

4. Careless, negligent, or improper use of District property, equipment, or funds;

5. Insubordination, which shall consist of violation of any official regulation or order or failure to obey, comply or accept any proper directions made and given by a supervisor in the course of employment, or any verbal ridicule of a supervisor by an employee during the course of employment;

6. Inefficiency, incompetence or negligence in the performance of assigned job duties or failure to perform job requirements or job performance which continues to be unsatisfactory;

7. Disorderly conduct or threats or abuse of others;

8. Chronic tardiness or absenteeism, or the improper or unauthorized use of leave privileges or benefits;

9. Stealing from the District or from other employees;

10. Taking unauthorized leave or job abandonment.

11. Failure to obtain and maintain a current license or certificate required as a condition of employment;

12. Intentional falsification or mishandling of District records;

13. Fraud in securing employment with the District or attempting to secure a promotion or a position by political influence;

14. Unauthorized or illegal use, sale, or possession of alcohol or illegal drugs, or being under the influence of such substances while on duty;

15. Gambling for money or articles of value during the working period;

16. Unauthorized discussion or release of confidential information documents or records;

17. Harassment and/or discriminatory behavior towards any person because of race, color, religion, gender, sexual orientation, gender identity, age, national origin, and disability; or

18. Action which reflects poorly upon the integrity of the District.

F. Time Limits:

In the event the last day of a time limit falls on a weekend or legal holiday, the time limits shall be extended to include the next working day. Receipt of written notice shall mean the day that the notice is received if hand-delivered or the day the notice is postmarked by certified mail, return receipt requested to the address of record for the employee or the date an e-mail is sent unless there is reason to believe the e-mail recipient did not actually receive the e-mail.

G. The dismissal, demotion or suspension of a classified regular employee shall be accomplished according to the following procedures:

1. Notice of Contemplated Action:

2. To initiate the suspension, demotion, or dismissal, the Supervisor shall serve a notice of contemplated action on the employee which: describes the conduct, action, or omissions which form the basis for the contemplated action; gives a general explanation of the evidence the Supervisor has; specifies what the contemplated action is; and states the date, time and place of the predetermination meeting, and that the employee may waive the right to the meeting by notifying the Supervisor in writing prior to the start of the meeting.

3. At the predetermination meeting the employee shall briefly have the grounds and the proposed action explained to him/her and shall have the right to respond. The purpose of the response is an opportunity for the employee to present his or her side of the story. It is an initial check against mistaken decisions, essentially a determination of whether there are reasonable grounds to believe that the charges against the employee are true and support the proposed action. The employee shall have the right to representation and the meeting may be recorded by either party.

4. Within seven (7) days from the date of the predetermination meeting, the Supervisor or designee shall notify the employee in writing if no disciplinary action will be taken.

5. Supervisor's Disciplinary Decision: If a decision is made to proceed with the disciplinary action, the Supervisor or designee shall serve the employee with a Disciplinary/Corrective Action Form and supporting documentation within seven (7) days from the date of the predetermination meeting. If it cannot be delivered personally, it will be sent by certified mail, with return receipt requested, to the employee's last address on record.

a. The Notice of Proposed Disciplinary Action shall state what disciplinary action is being recommended and when the proposed action will take effect, absent an appeal to the Executive Director.

b. No disciplinary action shall be final until the Executive Director has approved and signed the Disciplinary/Corrective Action Form.

6. Appeal of the Supervisor's Decision: If the employee wishes to appeal the dismissal, demotion, or suspension, the employee shall submit a written notice of appeal to the Executive Director within seven (7) days from receipt of the Disciplinary/Corrective Action Form. The written notice of appeal shall state the specific reason(s) the employee disagrees with the discipline and any other basis for the appeal.

7. The Executive Director shall review the written notice of appeal and respond in writing by preparing a Written Notice of Final Decision within seven (7) days from the date of service of the written appeal. The Executive Director's decision may affirm, modify, or reject the disciplinary action. The Executive Director may, within this time period, request a meeting with the employee to discuss the appeal and its settlement. Even in the absence of an appeal by the employee, the Executive Director, by his own authority, may affirm, modify, or reject the disciplinary action.

8. The Written Notice of Final Decision must:

a. Document the date, time and place of the predetermination meeting;

b. Identify the specific misconduct;

c. Specify the disciplinary action, if any, to be taken;

e. Specify the effective date of the dismissal, demotion, or suspension which must be at least seven (7) days after the date of the Written Notice of Final Decision (during this seven day period the Executive Director may place the employee on paid administrative leave if deemed in the best interest of the District);

e. Inform the employee that the disciplinary action may be appealed to an independent hearing officer by submitting a written appeal to the Executive Director within fifteen (15) days of the effective date of the dismissal, demotion, or suspension; and

f. Be delivered personally to the employee by the employer or by certified mail, with return receipt requested, to the employee's last address on record.

9. The Executive Director may, when deemed in the best interest of the District, extend the time limit for providing the employee with the Notice of Final Decision

10. Employees who have been dismissed from employment for disciplinary reasons shall not be eligible for rehire.

4.31 Appeal of the Executive Director's Disciplinary Action Decision and Appointment of Hearing Officer.

A. Only suspension, demotions and termination may be appealed under this section. In order to file a valid appeal under this section, an employee shall submit a written notice of appeal to the Executive Director within) ten (10) days of receipt of the Executive Director's disciplinary action decision. The Executive Director shall, within twenty (20) days from the date of service of the written appeal, appoint an outside hearing officer to hear the appeal. Appeals not filed within ten(10) days shall be dismissed for lack of jurisdiction.

1. The hearing officer shall be a licensed New Mexico attorney or a person experienced in personnel administration. The NCRTD shall obtain prior approval from and maintain a schedule with the names of one or more persons qualified under these rules who will be willing and able to fulfill the requirements of hearing officer.

2. The hearing officer shall not participate in any adjudicatory proceeding if, for any reason, the hearing officer cannot afford a fair and impartial hearing to either party.

3. The employee or District may ask to disqualify the designated hearing officer for cause by filing an affidavit of disqualification within ten (10) days of the hearing officer's designation or immediately upon subsequently learning of the grounds for disqualification. The affidavit must state the particular grounds for disqualification. The designated hearing officer shall rule on motions for disqualification.

4. No person shall discuss the merits of the appeal with the designated hearing officer unless both parties are present or their representatives are present. Hearings on appeals shall comply with the requirements of fundamental due process and shall at a minimum provide, notice, an opportunity for the parties to be heard, the opportunity for parties to submit witnesses and evidence under oath, and the right to cross-examination.

4.32 Hearings.

A. The hearing officer will determine the date and time of the hearing.

B. A party may appear at the hearing through a representative, provided such representative has made a written entry of appearance prior to the hearing date.

C. The hearing officer may clear the room of witnesses not under examination, if either party so requests. The District is entitled to have the Executive Director or his/her designee, in addition to its representative, in the hearing room during the course of the hearing, even if the person may testify in the hearing.

D. The District shall present its evidence first.

E. Oral evidence shall be taken only under oath or affirmation.

F. Each party shall have the right to:

1. Make opening and closing statements;
2. Call and examine witnesses and introduce exhibits; and
3. Offer rebuttal evidence.
4. Cross-examine the opposing party's witnesses.

G. The hearing shall be conducted in an orderly and informal manner without strict adherence to the rules of evidence that govern proceedings in the courts of the state of New Mexico. In order to support the hearing officer's decision, there must be a residuum of legally competent evidence admissible to support a verdict in a court of law.

H. The hearing officer shall admit all evidence, including affidavits, if it is the sort of evidence upon which responsible persons are accustomed to rely in the conduct of serious affairs. The hearing officer shall exclude immaterial, irrelevant, or unduly cumulative testimony.

I. The hearing officer may take administrative notice of those matters in which courts of this state may take judicial notice.

J. The rules of privilege shall be effective to the extent that they are required to be recognized in civil action in the District Courts of the State of New Mexico.

K. The hearing shall be recorded by a sound-recording device under the supervision of the hearing officer.

L. The District carries the burden of proof by a preponderance of the evidence.

M. At least fifteen (15) days prior to the hearing, the parties must submit to the hearing officer:

1. a position statement
2. a witness list
3. an exhibit list.

At least five (5) days prior to the hearing a party must file any objections to the other party's witnesses or exhibits with the hearing officer. Witnesses who are not disclosed by this deadline or the deadline contained in a pre-hearing order, if any, shall not be permitted to testify except for good cause shown and to prevent manifest injustice.

N. Subpoenas:

1. The hearing officer has the power to subpoena witnesses.

2. Subpoenas shall be prepared in triplicate by the party requesting the subpoena and will be issued by the hearing officer. A copy of each subpoena shall be sent to the opposing party by the requesting party, together with a transmittal letter listing all persons subpoenaed.

3. Subpoenas shall be hand delivered unless otherwise agreed to.

4. In order to compel attendance at a hearing, the subpoena shall be received by the witness at least seventy-two (72) hours prior to the time the witness is to appear. The hearing officer may waive this rule for good cause shown.

5. Employees under subpoena shall be granted administrative leave for the time spent at the hearing and the time spent traveling to and from the hearing.

O. Hearing Officer's Decision.

1. The hearing officer's decision shall be issued within twenty (20) days of the hearing, unless an extension is otherwise agreed to by the parties. The hearing officer's decision shall include findings of fact and conclusions of law. The hearing officer shall provide a copy of the decision to the parties by certified mail with return receipt requested.

2. The hearing officer may uphold, modify, or reverse the decision of the Executive Director.

4. In the event that the hearing officer order includes an award of back pay, the employee shall provide the District with a sworn statement and documentation of any gross earnings and unemployment compensation since the effective date of the disciplinary action. The District shall be entitled to offset earnings and unemployment compensation received during the period covered by the back pay award against the back pay due. The hearing officer shall retain jurisdiction of the case for the purpose of resolving any disputes regarding back pay.

5. The decision of the hearing officer shall be the final step in the administrative process provided for by these Rules.

4.33 Administrative Dispute Resolution Procedures—Purpose.

The purpose of this procedure is to secure, in an atmosphere of courtesy and cooperation, an equitable solution to personnel matters, employment practices, or job-related conflicts that may arise. This procedure may not be used for appealing disciplinary actions. Disciplinary actions must be appealed according to the provisions in preceding Section of this Rule.

4.34 Jurisdiction.

A. All classified regular employees and limited term, non-probationary employees within the District are afforded the right to utilize the Administrative Dispute Resolution Procedures.

B. When two or more disputes are filed which require investigations of a common question of law or fact arising out of the same circumstances, the Executive Director may consolidate them into one dispute.

C. Disputes must be current, concerning matters having taken place within ten (10) days of the violation.

D. Case files and record keeping of hearings are the Executive Director's or designee's responsibility.

4.35 Dispute Defined.

A dispute may be considered as an expressed dissatisfaction, whereby an employee believes that he/she has been unfairly treated in violation of the District's Personnel Rules and Regulations regarding personnel matters. These Rules and Regulations are expressly limited to personnel disputes and do not cover non-personnel matters or matters that are covered by a separate legal regime such as worker's compensation.

4.36 Rights.

At any stage during the presentation of the complaint, including the counseling stage, the complainant shall be free from restraint, interference, coercion, discrimination, or reprisal and shall have the right to be accompanied, represented, and advised by a representative of his/her own choosing.

4.37 Relevant Facts.

A. The complaint must contain, at a minimum, the following defined facts:

B. The date on which the alleged violation of the District Personnel Rules and Regulations took place.

C. The specific violation of the District Personnel Rules and Regulations about which the complaint is made.

D. Facts and other pertinent information to support the allegations.

E. The remedial action sought by the grievant.

F. The lack of complete information at the time of filing shall not constitute grounds for refusal to accept a complaint.

4.38 Procedure.

The time limits set forth in this procedure may be subject to extension under exceptional circumstances as determined by the Executive Director. In processing the complaint, the following procedure shall apply:

A. Step 1: Immediate Supervisor Level

Employee submits, in writing, his or her complaint in regard to a violation of the Rules and Regulations within ten (10) days of the violation, to his or her supervisor. The supervisor shall respond within ten (10) days of receipt of the written complaint by speaking with the employee. If the complaint is not resolved at this meeting, the immediate supervisor shall provide to the employee a written response. If a satisfactory solution is not reached within ten (10) days after speaking to the immediate supervisor, the grievance may be submitted to

Step 2 by filing the complaint with the next higher supervisor within five (5) days after receipt of the written response by the immediate supervisor. If the immediate supervisor is the highest level of supervisor for the employee, the grievance shall be moved directly to Step 3.

B. Step 2: Second Level

If the complaint is not satisfactorily resolved at Step 1, the complaint may be submitted to any intermediate supervisor who is above the direct supervisor but below the Executive Director. . The intermediate supervisor shall respond in writing within ten (10) days of receipt of the written complaint and may, within this time period, request a meeting with the employee to discuss the complaint and its settlement. If the complaint is not satisfactorily resolved at this level, the complaint may be submitted to Step 3 by filing with the Executive Director within five (5) days after receipt of the written response by the intermediate supervisor.

C. Step 3: Executive Director

If the complaint is not satisfactorily resolved at Step 2, the complaint may be submitted to the Executive Director. The Executive Director shall respond in writing within ten (10) days of receipt of the complaint and may, within this time period, request a meeting with the employee to discuss the complaint and its resolution. The Executive Director's decision shall be final.

Rule 5 WORK HOURS

5.1 Regular full-time District employees have a regular work week of forty (40) hours.

5.2 Normal work hours in the various work units shall be set by the supervisor, with the approval of the Executive Director. Consideration should be given to shift requirements, seasonal conditions, special service needs and other activities necessary to provide a continuity of public service. Occasionally, it may become necessary to deviate from the normal work hours due to changing requirements. It is the responsibility of supervisors to prescribe work hours in such cases.

5.3 Lunch Breaks shall be determined by supervisors with the approval of the Executive Director. Generally a one-hour lunch break shall be provided to all employees; however, work schedules and other job-related functions may necessitate variations in the scheduling of the lunch break. Relief periods, other than the lunch break may be granted as time permits but should be limited to fifteen (15) minutes, once in the first half of the work shift and once in the second half. Employees should not combine two (2) relief periods into one, nor should they be allowed to combine a relief period with a lunch break. Relief periods shall not be eliminated to permit employees to start or leave early on a regular basis. In addition, relief periods are a privilege and care should be taken to assure that they are not abused.

Relief periods are considered hours worked; lunch breaks are considered hours not worked. Supervisors should not permit nonexempt employees to forego the lunch break or continue working while having lunch. Lunch breaks may not be eliminated or shortened so that employees can regularly start late or leave early.

RULE 6 RECORDS AND REPORTS

6.1 District Official Personnel Records.

The official personnel records for each employee of the District shall be maintained in the Human Resources Office. Such records shall include a copy of the employee's application, the original copy of each performance appraisal reports, and any other pertinent information. Such records shall be made available for inspection by the employee and his/her supervisors, as well as Department Management considering the employee for promotion or transfer and by any person employed by the District authorized by the Executive Director to do so.

6.2 Employee Rights.

Employees shall be provided a copy of any material placed in their official personnel record and may present a written response to any material in the record to be attached to the original material.

6.3 Confidentiality of Records.

A. Only those records which are subject to inspection under the New Mexico Inspection of Public Records Act will be subject to inspection by members of the public. Personnel records not subject to inspection may be inspected with the written permission of the employee. Supervisors within the employee's chain of command may inspect the employee's record without the employee's permission.

B. For the purpose of preserving the confidentiality of personnel records, the following records may be inspected by the public only with the written permission of the employee. These records include records pertaining to:

1. physical or mental examinations and medical treatment of persons confined to any institution, use of sick leave, FMLA leave;
2. letters of reference concerning employment, licensing, or permits;
3. letters or memoranda which are matters of opinion;
4. documents concerning infractions and disciplinary actions;
5. performance appraisals;
6. college transcripts; and
7. military discharge if other than honorable.

Rule 7 - Employee Benefit Programs

As a standard for assignment, for retirement, fringe benefits and annual salary increases under these rules and regulations, the following shall apply:

A. Full-time regular employees - Shall be eligible for participation in the following subject to rules and regulations governing said benefits:

1. Public Employees Retirement Association of New Mexico (PERA);
2. New Mexico Retiree Health Care Authority;
3. Social Security;
4. 457 Deferred Compensation Plan;
5. Insurance benefits;
6. Additional fringe benefits identified in the Personnel Rules and Regulations and administrative policies that are applicable to this classification.

B. Part-time regular employees - Shall be eligible for participation in the above mentioned benefits, on a pro-rated basis, subject to rules and regulations governing said benefits. Pro-ration is based on the ratio of hired hours to the number of hours in the normally scheduled work period.

C. Temporary employees - Shall not be eligible for participation in the fringe benefits identified herein. When a temporary employee is converted from temporary to regular or limited-term, without a break in continuous service, the following shall apply:

1. Eligibility for participation in retirement benefits shall be based on the date the employee was converted to probationary, regular or limited-term status.
2. The service date, as defined in these rules and regulations, shall be used in computing annual leave, sick leave;
3. Eligibility for participation in the salary increase process shall be based on the date the employee was converted to probationary, regular or limited-term status;
4. If the employee is converted to a regular or limited-term position, the date of this conversion shall be used in computing the probationary period.

D. Limited-term employees - Shall be eligible for participation in the following subject to rules and regulations governing said benefits:

1. Public Employees Retirement Association of New Mexico (PERA);
2. Social Security;
3. New Mexico Retiree Health Care Authority;

4. 457 Deferred Compensation Plan;

5. Insurance benefits;

6. Additional fringe benefits identified in the Personnel Rules and Regulations and administrative policies that are applicable to this classification.

Definitions

Accrued Vacation Leave: The hours of annual leave an employee has earned from their anniversary date to a particular month that have not yet been added to the employee's records.

Accumulated Vacation Leave: The hours of annual leave an employee has in their records and that are added on a monthly basis.

Administrative Dispute: A written statement of dissatisfaction about the administration of the Personnel Rules and Regulations of the District as it affects an individual employee or group of employees.

Administrative Leave: Leave that is authorized by the Executive Director with or without pay for an employee during the time a fact finding investigation or other administrative proceeding is pending completion or in other circumstances deemed in the best interest of the District.

Allocation: The official assignment of an individual position to the proper classification according to the duties performed and authority exercised.

Anniversary Date: The initial date of employment in a budgeted position and the date from which vacation leave, sick leave and longevity will be computed.

At–Will Employment: The employment relationship for all employees hired in exempt employee classifications under state law and whom maybe terminated at any time with or without cause or notice. Employees who are FLSA exempt under federal law may also be exempt under state law.

Board: means the Board of Directors of the NCRTD.

Bona fide occupational qualification: Means a qualification reasonably related to the satisfactory performance of the duties of a job, and for which where there is factual basis to believe that a person lacking the qualification would be unable to perform satisfactorily the duties of the job with safety and efficiency.

Budgeted Position: A position that is funded in the District's annual budget.

Candidate: Means any person who has qualified under these Rules for appointment in a specific classification.

Classified Regular employee: Means the status acquired by a non-exempt employee who has successfully completed his/her probationary period and is, therefore, classified to serve in the position he/she holds.

Classification: Means one or more positions so similar in the essential character of their duties and responsibilities that the same pay range, title, and qualification requirements can be applied.

Classification Title: A name assigned to a position that indicates a particular level of rank and specific duties and responsibilities.

Classification and Compensation Plan: The District's official plan that classifies positions and sets compensation rates.

Compensation: The salary/wage and all other forms of valuable consideration earned by, or paid to, any employee in remuneration for the services in any position.

Day or Days: any reference to day or days means business day or days and shall include normal dates of operation and excludes weekends and holiday.

Disabilities: A physical or mental impairment that substantially limits one or more major life activities of an individual, a record of such impairment, or being regarded as having such an impairment.

District: The North Central Regional Transit District.

Disciplinary Action: There are several types of disciplinary action that may include, whether individually or in combination, an official reprimand (verbal or written), suspension, reduction in salary, demotion, or termination.

Division: A major functional subdivision of the District organizational structure that is accountable to the Executive Director.

Division Guidelines: Guidelines issued by a division manager and approved by the Executive Director designed for specific types of activities within a division's operation.

Division Manager (Manager/Management): means an employee in a position that manages internal and/or external staff, and who plans, organizes, integrates, coordinates, and controls the activities of others. A manager also is held accountable for the performance of people, services, systems, programs and resources and serves in an at-will position that administers the operation of a district division and is directly responsible to the Executive Director.

Domestic partner: means any person living in the same domicile as the employee or prospective employee.

Drug and Alcohol:

Employee or Incumbent: A person occupying a position in the district service. Such persons include, but are not limited to, the following:

1. Classified Regular Employee: means a budgeted, full or part-time position, duties of which do not terminate at any stated time. An employee working 40 hours minimum per week is eligible to receive full fringe benefits. An employee working not less than 21 hours and nor more than 39 hours per week is entitled to partial fringe benefits on a pro rata basis.

2. Exempt Employee: means a budgeted, full or part-time position, exempt from the classified service and/or FSLA.

3. Temporary Employee: means the employment of a person hired to perform a job which is limited in nature or is on a seasonal basis and which will not exceed twelve months of employment unless otherwise approved by of the Executive Director.

4. Limited Term Employee: means the employment of a person for a designated period of time, usually in excess of one (1) year. for a limited and specified time period, e.g., one year or longer subject to funding for the project or program, with benefits and subject

to all personnel rules and regulations, except for the right of appeal regarding the expiration of the appointment or as otherwise stated herein.

5. Emergency Employee: employment of a person when an emergency condition exists that would, in the opinion of the Executive Director, compromise the public health, safety, and welfare, or severely curtail the normal operations of the District and where there are no candidates available on an appropriate list of eligible's.

Essential functions: The fundamental job duties of any particular employment position. The term "essential function" does not include the marginal functions of the position. The job function may be essential for any or several reasons including, but not limited to, the following:

1. the reason the positions exists is to perform that function;

2. there are a limited number of employees available among whom the performance of that job function can be distributed; or

3. it is necessary to ensure that life or safety is not jeopardized.

Executive Director: means the chief executive officer of the North Central Regional Transit District ("District") who is responsible for the administration and supervision of all District activities including the appointment, hiring, and retention of all employees, management of any divisions or departments which may be created, and ultimate supervisory responsibility for all employees of District.

Fair Labor Standards Act (FLSA): A federal law enacted by the United States Congress in 1938, which sets minimum wage, overtime pay, equal pay, recordkeeping, and child labor standards for employees who are covered by the Act.

FLSA Exempt Employee: A person in a budgeted position exempt from the overtime provisions of the Fair Labor Standards Act as an executive, administrative, or professional employee.

Family Medical Leave Act (FMLA): A law enacted on February 5, 1993 which entitles qualified employees to up to 12 weeks of unpaid leave per year for the birth, adoption or placement for foster care of a child, to care for a spouse or an immediate family member with a serious health condition, or when unable to work because of a serious health condition.

Furlough: means the temporary placement of an employee in a reduced work hour schedule, which can either be partial or full time, due to lack of work or funds.

In-grade Hire: Means the authorized hiring of an employee at a rate higher than the initial or beginning rate in the pay range assigned to the position.

Hiring Authority: The Executive Director, or the Executive Director's designated representative who has the authority to hire individuals to fill positions.

Hire Date: The date that a newly hired employee (temporary or probationary) begins work for the District.

Lists of Eligibles: Means a list of names classified by the Executive Director from which a candidate may be selected for employment.

Probationary Period: A working trial or orientation period ranging from six to twelve months during which an employee demonstrates, by actual performance, the employee's suitability for the duties of the position to which the employee has been appointed.

Position: The official rank within a given classification and held by an employee with a descriptive title.

Position Description: A complete and detailed statement about the responsibilities, essential functions, specific duties, and minimum qualifications of a specific position within a given classification, as well as decision-making responsibilities, level of supervision received and exercised, working conditions, and equipment operated.

Promotion: A change in the employment status of an employee to a position in a higher classification with a higher rate of pay and increased responsibility.

Range: The limits set for the minimum and maximum rates of pay within a given classification.

Rate of Pay: See compensation.

Reclassification: The process of reassigning a position to a different classification as a result of a position audit.

Retirement: Official retirement from a budgeted position and District service that is available when the requirements of the employee's retirement system are met.

Salary Date: The date on which an employee's rate of pay becomes effective and on which advancements within the pay plan are generally based.

Salary Schedule: a series of salary ranges to which the various classifications in the District are to be allocated with ranges for each classification consistent with the functions outlined in the job descriptions and any current classification policy. Each salary range shall include minimum and maximum rates of pay.

Separation Date: The last day of an employee's work in District service, after which no vacation or sick leave is accrued or used.

Supervisor: An employee hired and/or appointed by the Executive Director assigned to a division to assign/direct and evaluate the work of other employees within a designated work unit of the same division.

Reduction in Force: Means the separation, lay off, involuntary demotion, reassignment, or reduction of work hours or number of employees in the District or in a division due to lack of work or funds.

Termination: The separation of an employee from District service. Termination may be by discharge, death, lay-off, resignation, retirement, work completion, contracting out District services, or lack of work or funds. The termination date is synonymous with the separation date and is the last day of an employee's work in District service. No vacation or sick leave is accrued or used from that date forward.

Transfer: A reassignment of an employee from one position to another position in the same classification or another classification having the same pay range, involving the performance of similar duties, and requiring substantially the same basic qualifications.

Unauthorized Leave of Absence: Failure of an employee to notify and receive permission from their immediate supervisor in advance of absence or failure of an employee to report for work at the beginning of their next regularly-scheduled work period. An unauthorized leave of absence includes all or any portion of a work day for which notice and approval have not been provided. An unauthorized leave of absence may be grounds for disciplinary action up to an including termination. Unauthorized leave is not compensated.

Workday: An employee's scheduled daily hours of employment.

Workweek: An employee's schedule of work hours within an appointed week